

It was alleged in the libel that the article was misbranded in that the following statements appearing on the label, were false and misleading: "Full of Vitamins"; "In September 1931 an important pamphlet was published by the U. S. Bureau of Fisheries that concluded: 'It is quite apparent that there is more vitamin D in canned salmon than in cod liver oil. It is an essential part of every diet.'" Misbranding was alleged for the further reason that the following statements appearing on the label were statements regarding the curative or therapeutic effects of the article, and were false and fraudulent: "'For the benefit of your health' eat canned salmon at regular intervals. Insure yourself against goitre * * * The Journal of the American Medical Association Vol. 86, pp. 1339 and 1340, published the results of experiments determining the iodine content under the heading Salmon in a diet for the prophylaxis of goiter, and it is the author's conclusion that canned salmon, on account of its high iodine content, is a valuable food in a diet for the prevention of goiter."

On July 16, 1934, the Deming & Gould Co., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$3,000, conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

22847. Misbranding of canned cherries. U. S. v. 96 Cases of Canned Cherries. Decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 33026. Sample nos. 68936-A, 71314-A.)

This case involved a shipment of pitted cherries which fell below the standard promulgated by the Secretary of Agriculture, because of the presence of excessive pits, and which were not labeled to indicate that they were sub-standard.

On June 28, 1934, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 96 cases of canned cherries at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce, on or about May 8, 1934, by G. P. Halferty & Co., from Seattle, Wash., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Broadway Brand Water Pack Pitted Red Sour Cherries * * * Packed by C. & H. Packing Co. Everett, Wash."

It was alleged in the libel that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On July 24, 1934, H. H. Schlottzhauer having appeared as claimant for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$600, conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

22848. Adulteration and misbranding of maraschino cherries. U. S. v. 406 Cases and 8 Cases of Cherries. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 33150. Sample nos. 301-B, 302-B, 335-B, 337-B, 338-B, 339-B, 391-B.)

This case involved shipments of maraschino cherries that contained undeclared artificial color, flavor, and sulphur dioxide. Portions of the product were short weight.

On July 30, 1934, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 414 cases of cherries at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce, in various shipments in part on or about March 4, March 22, and April 5, 1934, by the Falcon Packing Co., Inc., and in part on June 22, 1934, by Mawer Gulden Annis, Inc., from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The

article was labeled in part: (Bottle) "Newmark Brand Special Extra Maraschino Style Cherries M. A. Newmark & Co., Distributors, Los Angeles, Contents 3 Oz. Net [or "5 Oz. Net", "8 Oz. Net", "1 Lb. Net", or "1 Lb. 12 Oz. Net"]."

It was alleged in the libel that the article was adulterated in that artificially colored and flavored cherries containing sulphur dioxide had been substituted for natural cherries.

It was further alleged that the article was misbranded in that it was labeled so as to deceive and mislead the purchaser, owing to failure to declare added artificial color, flavor, and sulphur dioxide. Misbranding was alleged with respect to portions of the article for the further reason that the statements, "Contents 3 Oz. Net", "Contents 1 Lb. net", and "Contents 1 Lb. 12 Oz. net", were false and misleading and tended to deceive and mislead the purchaser, and for the further reason that the said portions were in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On August 2, 1934, the Falcon Packing Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered by the court that the product be released to the claimant for relabeling, upon the execution of a bond in the sum of \$1,000, conditioned that it would not be disposed of in violation of the Food and Drugs Act.

M. L. WILSON, *Acting Secretary of Agriculture.*

22849. Adulteration of butter. U. S. v. 21 Tubs of Butter. Consent decree of condemnation and forfeiture. Product released under bond to be reworked. (F. & D. no. 33182. Sample no. 6921-B.)

This case involved a shipment of butter, samples of which were found to contain less than 80 percent of milk fat.

On July 26, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 21 tubs of butter at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about July 14, 1934, by the Parkersburg Butter & Egg Shippers Association, from Parkersburg, Iowa, for the Kesley Cooperative Creamery Co., Kesley, Iowa, in pool car consigned to New York, N. Y., and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libel that the article was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent of milk fat as provided by the act of Congress of March 4, 1923.

On July 31, 1934, the claimant having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$500, conditioned that it be reworked so that it contain at least 80 percent of milk fat.

M. L. WILSON, *Acting Secretary of Agriculture.*

22850. Misbranding of butter. U. S. v. 7 Cases of Butter. Decree of condemnation and destruction. (F. & D. no. 33186. Sample no. 73952-A.)

Sample packages of butter taken from the shipment involved in this case were found to contain less than 1 pound, the weight declared on the label.

On June 29, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven cases of butter at Hoquiam, Wash., consigned by Swift & Co., June 23, 1934, alleging that the article had been shipped in interstate commerce from Portland, Oreg., into the State of Washington, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Swift's Premium Quality Brookfield Butter Net Weight 1 lb."

It was alleged in the libel that the article was misbranded in that the statement "1 Lb. Net Weight" was false and misleading, and for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was not correct.